



Illabunda Ski Lodge, Perisher Valley

Development Application Assessment
DA 10164

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Cover image: *Main Range, Kosciuszko National Park (Source: Alpine Resorts Team)*

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
BC Regulation	<i>Biodiversity Conservation Regulation 2017</i>
BVM	Biodiversity Values Map
Consent	Development Consent
CPP	Community Participation Plan
Department	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
KNP	Kosciuszko National Park
Minister	Minister for Planning and Public Spaces
NPWS	National Parks & Wildlife Service
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy

Executive Summary

This report provides an assessment of a Development Application (DA 10164) seeking approval to upgrade the existing commercial kitchen and associated facilities at Illabunda Ski Lodge, Perisher Valley, Perisher Range Alpine Resort within Kosciuszko National Park (KNP). The Applicant is Port Kembla Ski Club.

The Minister for Planning and Public Spaces is the consent authority for development within a ski resort in KNP and the proposal is permissible with consent under the provisions of *State Environmental Planning Policy (Kosciuszko National Park-Alpine Resorts) 2007* (the Alpine SEPP).

Consistent with the Department's Community Participation Plan, the Department of Planning, Industry and Environment (the Department) did not exhibit the proposal as the works are for internal alterations to an existing tourist accommodation building. The Department however made the application publicly available on Department's website and referred the application to relevant government agencies. The Department received comments from the National Parks and Wildlife Service (NPWS) during the assessment of the application. No submissions from the public were received.

The Department has assessed the proposal in accordance with relevant matters under section 4.15(1) and the objects of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), the principles of Ecologically Sustainable Development, and issues raised in all submissions.

The Department considers the proposal is acceptable as:

- there will not be a significant impact on any threatened species, populations or ecological communities as the works are internal only
- the works to the kitchen is aimed at upgrading the commercial kitchen to meet current standards for public health
- the works improve the functionality and efficiency of the kitchen without impacting on any adjoining properties

The Department's assessment concludes the application is in the public interest as it supports the ongoing use of the existing building for tourist accommodation which supports the regional plan for the locality and maintains its consistency with the Alpine SEPP.

The Department therefore recommends the application be approved subject to conditions.

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1 Introduction

This report provides an assessment of a Development Application (DA 10164) seeking approval to upgrade the existing commercial kitchen and associated facilities at Illabunda Ski Lodge, Perisher Valley, Perisher Range Alpine Resort within KNP.

The proposal includes internal alterations to the existing commercial kitchen through upgrading kitchen facilities and the inclusion of a cool room and modified party area improving the functionality of the kitchen.

The application has been lodged by Port Kembla Ski Club (the Applicant) under Part 4 of the EP&A Act.

1.1 Site location and context

The site is located in Perisher Range Alpine Resort, which is in the southern part of KNP (**Figure 1**). The proposal is located within Illabunda Ski Lodge (**Figure 2**), which was constructed in 1986 and is used for tourist accommodation. The lodge has a licence for 22 beds under its lease and contains a commercial kitchen (**Figure 3**).

There is native vegetation within the Lot, some of which is was reduced during the 2014 application for the recladding of the building. The land outside of the lease is charactered by native vegetation which provides habitat for native animals. The site is accessible from Telemark Place.

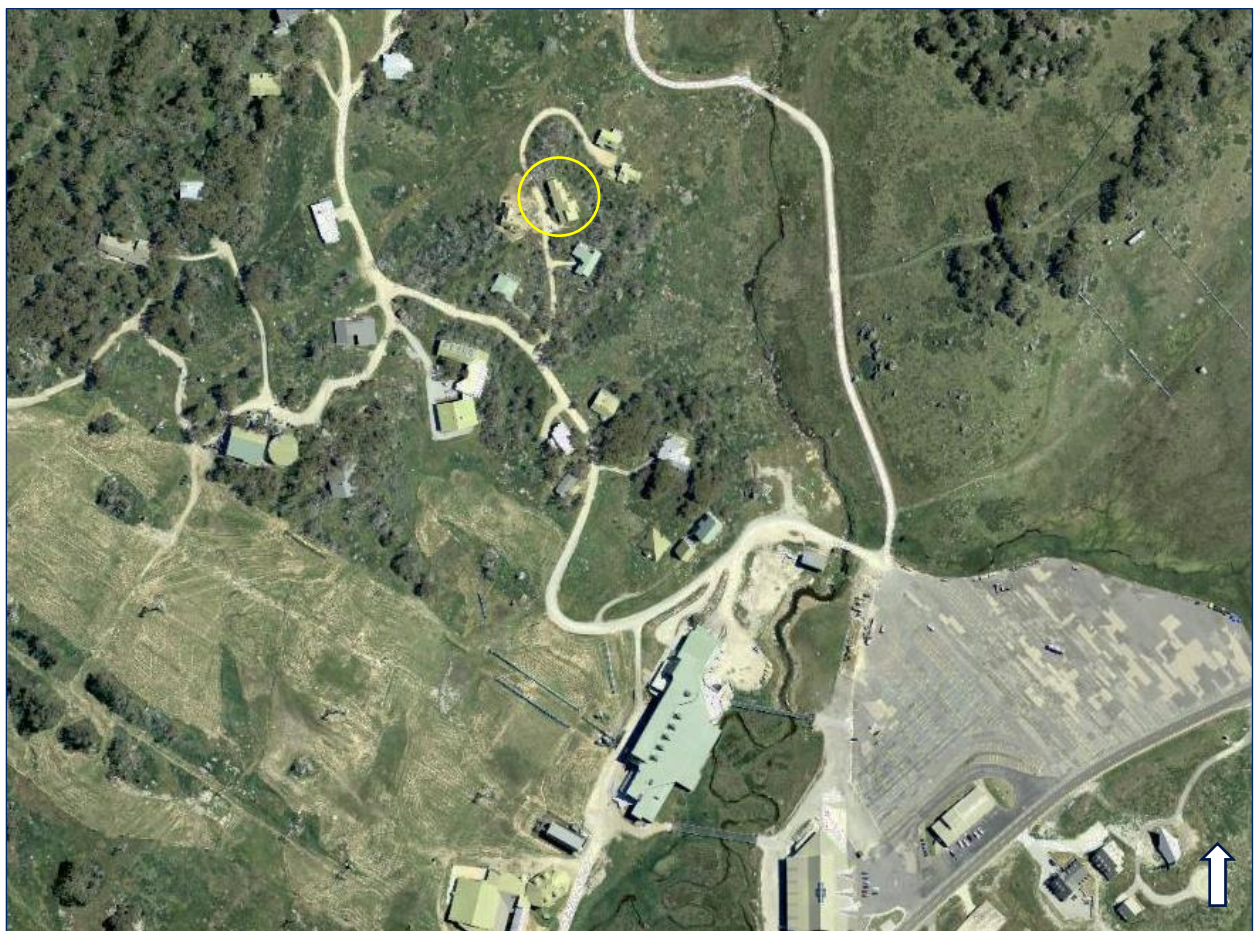


Figure 1 | Site in context of Perisher Valley (Source: SIX Maps 2020)



Figure 2 | External photograph of Illabunda Ski Lodge (Source: Department photograph)



Figure 3 | Existing commercial kitchen (Source: Department inspection)

2 Project

The application seeks approval for internal alterations within Illabunda Ski Lodge by undertaking the following works to the commercial kitchen area:

- removal of existing fridges and relocating existing freezer
- installation of a new cool room
- removing and reconfiguring the pantry wall to accommodate the new cool room
- installing new shelving to the pantry
- creating a new servery for dish return near kitchen sink
- installing a new stainless steel dish return bench adjacent to kitchen sink
- installing a new cooktop / oven, hot plate and deep fryer and 1 existing oven within existing range hood area and adjusting existing benchtops and cupboards to suit
- installing a new dishwasher in the same location and a new guest fridge under existing servery bench
- replacing existing cupboard doors with new cupboard doors
- laying new commercial grade vinyl floor to kitchen and pantry
- upgrading the existing range hood exhaust system
- work incidental and required to facilitate the above

The Applicant indicates that the works upgrade and improve the kitchen facilities to provide enhanced food handling practices and enhanced compliance with food standards; improve flow and operational efficiencies of kitchen operations; allow more effective and efficient cleaning of the kitchen; provide appliances with increase energy efficiencies; and increase the amount of cold storage for food.

The proposal has a cost of works of approximately \$50,000.

3 Strategic context

The Snowy Mountains region offers a diverse and unique mix of visitor destinations including the KNP, the alpine resorts, the iconic Snowy River and the highest mountains on the Australian continent. A strong tourism economy is driven mainly by skiing and related winter sport experiences during the peak winter season. The region, including the alpine resorts, also provides opportunities for a range of other recreational activities during the warmer months such as hiking, fishing, kayaking and mountain-biking. The resorts are important to NSW due to their economic and social contribution as well as their location within a unique alpine environment. The two main documents that support the strategic context of the alpine resorts are the *South East and Tableland Regional Plan 2036* and the Alpine SEPP.

South East and Tableland Regional Plan 2036

The South East and Tableland Regional Plan 2036 describes the vision, goals and actions that will deliver greater prosperity for those who live, work and visit the region. The plan provides an overarching framework to guide more detailed land use plans, development proposals and infrastructure funding decisions.

In relation to the alpine resorts, the Regional Plan seeks to promote more diverse tourism opportunities in the Snowy Mountains that will strengthen long-term resilience while acknowledging the environmental and cultural significance of the locality.

The Department considers the proposal is consistent with the Regional Plan as it would maintain the existing use of the site for tourist accommodation, improves the functionality of the kitchen for the chef and staff that provide food for guests and visitors, which maintains visitation to the NSW ski resorts.

Alpine SEPP

The Alpine SEPP governs development on land within the ski resort areas of KNP. The SEPP and aims to protect the natural and cultural heritage of land within the resorts and to encourage environmentally sustainable development. Under the provisions of the Alpine SEPP, the NPWS have a commenting role as the land manager which includes administering the Plan of Management framework for KNP that incorporates objectives, principles and policies to guide the long-term management of the broad range of values found in the park.

The Department considers the proposal is consistent with the Alpine SEPP as the proposal would not have an impact on the environment and would improve the commercial kitchen facilities within the existing tourist accommodation building to the benefit of guests.

4 Statutory Context

4.1 Consent Authority

Under clause 7 of the Alpine SEPP, the Minister for Planning and Public Spaces is the consent authority for the application as the development takes place within a ski resort area as referred to in clause 32C (2)(a) of Schedule 1 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

In accordance with the Minister's delegation of 9 March 2020, the Team Leader, Alpine Resorts Team may determine the application as:

- no reportable political donation has been disclosed
- there are less than 25 public submissions in the nature of objections
- the application is in relation to land which the Alpine SEPP applies

4.2 Permissibility

The proposal includes internal works to the commercial kitchen within the Illabunda Ski Lodge while maintaining the use of the site consistent with the definition of 'tourist accommodation' as defined in the Alpine SEPP. Pursuant to clause 11 of the Alpine SEPP, 'tourist accommodation' are permissible with consent within the Perisher Range Alpine Resort.

4.3 Other approvals

Not applicable to proposal.

4.4 Mandatory Matters for Consideration

Objects of the EP&A Act

The Department has considered the proposal against the relevant objects of the EP&A Act in **Appendix B**. The Department is satisfied the proposal is consistent with the objects as:

- works are aimed at improving the amenity and functionality of the commercial kitchen area of an existing tourist accommodation building, thereby supporting the orderly and economic use of the site
- there would not be an impact on the environment thus being ecologically sustainable development

Ecologically Sustainable Development (ESD)

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. ESD initiatives and sustainability have been adequately considered by the Applicant and mitigation measures are proposed to be incorporated into the design.

The proposal is consistent with the ESD principles and the Department is satisfied the proposed works have been developed having regard to the ESD principles, in accordance with the objects of the EP&A Act as follows:

- the works are aimed at upgrading the existing commercial kitchen facilities within the tourist accommodation building, thereby supporting the orderly and economic use of the site
- there would not be an impact on the environment thus being ecologically sustainable development
- the proposal does not impact upon cultural heritage, including Aboriginal cultural heritage

Biodiversity Conservation Act 2016

Section 1.7 of the EP&A Act requires the application of the *Biodiversity Conservation Act 2016* (BC Act) in connection with the terrestrial environment. The BC Act introduced a Biodiversity Offsets Scheme that applies when:

- the amount of native vegetation being cleared exceeds a certain threshold area; or
- the impacts occur within an area mapped on the Biodiversity Values Map (BVM) published by the Minister for Environment; or
- the ‘test of significance’, in section 7.3 of the BC Act, identifies that the development or activity is likely to significantly effect threatened species or ecological communities, or their habitats; or
- the works are carried out in a declared area of outstanding biodiversity value.

The Applicant commented that the works are not expected to have any adverse impact on threatened species, populations or ecological communities, or their habitats. The Department notes that there would be no vegetation removed as part of this proposal (being internal only works) and the site is located outside of the BVM. Material and storage areas would be within defined areas clear of vegetation.

There is currently no declared area of outstanding biodiversity value within Kosciuszko National Park.

Considerations under section 4.15 of the EP&A Act

Under section 4.15 of the EP&A Act, in determining a development application, a consent authority is required to take a number of matters into consideration in relation to the proposed development. The Department has given due consideration to the matters prescribed by section 4.15 as outlined in **Table 1** below.

The table represents a summary for which consideration is provided for in **Section 6** (Assessment) and relevant appendices or other sections of this report, referenced in the table.

Table 1 | Section 4.15(1) Matters for Consideration

<p>(a)(i) any environmental planning instrument (EPI)</p>	<p>The Alpine SEPP is the only EPI’s which applies to the site for this type of development. An assessment against the requirements of the Alpine SEPP is provided in Appendix B.</p> <p>The Department is satisfied that the application is consistent with the requirements of the Alpine SEPP.</p>
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(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Not applicable.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations	<p>The application satisfactorily meets the relevant requirements of the EP&A Regulation, particularly the procedures relating to development applications (Part 6) and fees (Part 15, Division 1).</p> <p>The Department has undertaken its assessment in accordance with all relevant matters as prescribed by the regulations, the findings of which are contained within this report.</p>
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development	The Department has considered the likely impacts of the development. No environmental impacts are likely from the proposal, as all works occur within the existing building. The proposal is considered to have positive economic and social impacts.
(c) the suitability of the site for the development,	The site is suitable for the development and supports the ongoing use of the building.
(d) any submissions made in accordance with this Act or the regulations,	Consideration has been given to agency submission received during the assessment of the application. See Section 5 of this report.
(e) the public interest.	<p>The works are consistent with the aim and objectives of the Alpine SEPP, would be compatible to the uses of the locality and there would not be an adverse impact on the environment. The proposal is consistent with the principles of ESD.</p> <p>As such, the proposal is in the public interest.</p>

5 Engagement

The Department's Community Participation Plan, November 2019, prepared in accordance with schedule 1 of the EP&A Act requires applications of development consent to be exhibited for a period of 14 days. However, applications under the Alpine SEPP are not required to be public exhibited if the proposal relates to works which are wholly internal to a building or where the site is located more than 50 metres away from a tourist accommodation building.

Due to works being contained wholly internal to a building the Department did not exhibit the application. The application was however made available:

- on the Department's website
- at its Jindabyne Office (Shop 5A, 19 Snowy River Avenue, Jindabyne)

The application was referred to the National Parks and Wildlife Service (NPWS) pursuant to clause 17 of the Alpine SEPP.

The NPWS does not object to the proposal and provided leasing and KNP Plan of Management, BC Act, and Aboriginal Cultural Heritage comments. Conditions were also recommended to address material storage, waste management, *Food Act 2003* compliance. The NPWS also commented that the works do not trigger the requirements for plumbing and drainage compliance.

The Department has considered the comments received from NPWS in **Section 6**, including discussion on compliance with the *Plumbing and Drainage Act 2011*, or through recommended conditions in the instrument of consent at **Appendix C**.

6 Assessment

The Department has considered the relevant matters for consideration under section 4.15 of the EP&A Act, the SEE and supporting information in its assessment of the proposal. The key issues in the Department's assessment are:

- design details and standards
- managing construction impacts

Each of these issues is discussed in the following sections of this report.

6.1 Design details and standards

The proposed works, when constructed, are to comply with the Building Code of Australia (BCA), the *Plumbing and Drainage Act 2011*, *Food Act 2003* and relevant Australian Standards. The Department has also considered the fire safety of the building as part of its assessment in accordance with Clause 94 of the EP&A Regs. The Department notes that compliance with relevant requirements is to be determined at the construction certificate stage by the certifier and in accordance with conditions of consent.

- The proposal is required to comply with the BCA and relevant Australian Standards. The Department considers that compliance with the BCA is achievable in relation to health and amenity, fire safety and the like. Documentation confirming compliance, is required at the Construction Certificate stage.
- Given the nature of the facility being a commercial kitchen, the proposal is required to comply with the *Food Act 2003* and the Australian Safety Food Standards. Comments received from the NPWS recommended conditions to ensure compliance with the Australian Standard and *Food Act 2003*, including that inspections by the NPWS environmental health officer.

Based on the plans (**Figure 4**) and documents that were submitted, and comments from NPWS, the Department is satisfied that compliance with the *Food Act 2003* and relevant standards can be achieved. Conditions have been recommended to ensure that the proposal is constructed in an appropriate manner without any risk to public health.

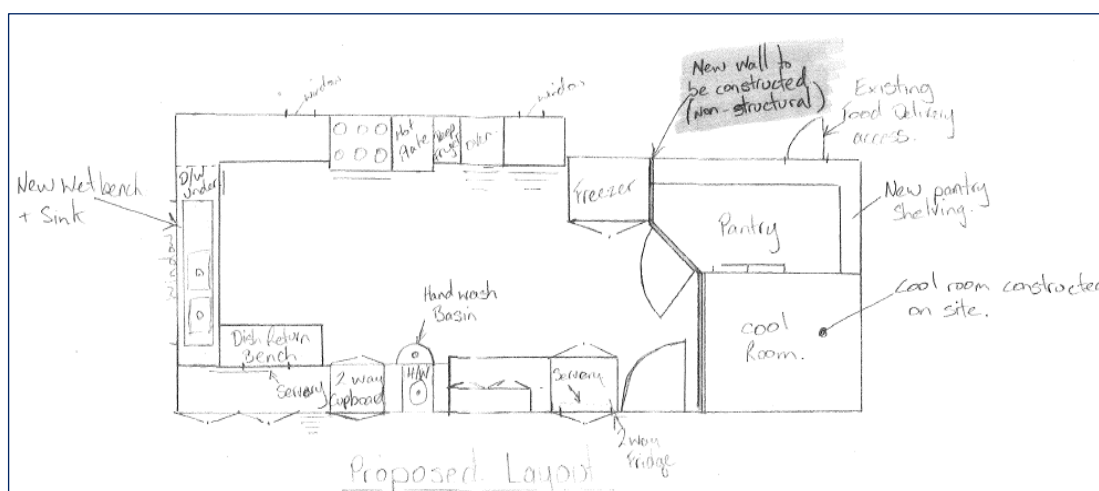


Figure 4 | Proposed kitchen and cool room layout (Source: Applicant's documentation)

- NPWS commented that the works do not trigger the requirements for plumbing and drainage compliance. The Applicant does not indicate if any new plumbing and drainage connections are proposed. If plumbing and drainage works are required, the Applicant would need to ensure compliance with the *Plumbing and Drainage Act 2011* (unless the proposal is eligible for an exemption under that Act) that would require prior to the commencement of works a notice of work is provided to the plumbing regulator (NPWS) and a certificate of compliance is provided at the completion of works.

The Department has recommended conditions of consent to ensure compliance, if required, with the *Plumbing and Drainage Act 2011*.

- Clause 94 of the EP&A Regulation requires a consent authority to review a building and consider whether upgrades are warranted to bring the existing building into total or partial compliance with the BCA. No additional fire safety upgrades are considered necessary at this stage.
- Compliance with the *Disability Discrimination Act 1992* (DDA), and therefore the Access to Premises Standards prepared under the DDA, is triggered at Construction Certificate stage. Ensuring compliance with the DDA is the responsibility of the building owner, manager and certifier. The Department has recommended an Advisory Note to ensure the building owner, manager and certifier are aware of these obligations.

The Department concludes that subject to compliance with the conditions of consent, including references to the BCA, the *Food Act 2003* and *Plumbing and Drainage Act 2011* which is to be addressed by the certifier at the Construction Certificate stage, the proposal is satisfactory and would improve the functionality of the kitchen for the benefit of its occupants.

6.2 Managing construction impacts

Given the scope and location of the works, it is unlikely that the construction of the proposal will cause any adverse impact upon the natural environment. The proposal is in keeping with the use of the building for tourist accommodation and the works will not generate any vegetation disturbance.

Parking is available at the site during construction. Construction impacts such as noise and vibration will be short term and managed in accordance with standard environmental conditions. It is also noted that construction is to occur outside the ski season.

The Department has recommended standard construction conditions applied in the Alpine area. Subject to compliance with these conditions, the Department is of the view that the proposed works would not impact upon nearby buildings or the environment.

7 Evaluation

The Department has assessed the merits of the proposal in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposal is acceptable as:

- the works would not result in any impact on any threatened species, populations or ecological communities
- the works to the building effectively upgrade the commercial kitchen and support the ongoing operation of the lodge
- there would be no construction impacts on the surrounding environment
- the recommended conditions would require compliance with all relevant legislation and standards

Overall, the Department is satisfied that the proposal is suitable for the site and in the public interest. The Department therefore recommends that the application be approved subject to recommended conditions.

8 Recommendation

It is recommended that the Team Leader, Alpine Resorts Team, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts** and adopts all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants** consent for the application in respect of DA 10164, subject to the conditions in the attached development consent
- **signs** the attached development consent and recommended conditions of consent (see attachment).

Recommended by:

A handwritten signature in black ink that reads "Mark Brown." The signature is written in a cursive style and is underlined.

Mark Brown

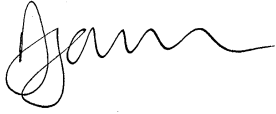
Senior Planner

Alpine Resorts Team

6 August 2020

9 Determination

The recommendation is **Adopted / Not adopted** by:

A handwritten signature in black ink, appearing to read 'Dan', written in a cursive style.

Daniel James
Team Leader
Alpine Resorts Team

as delegate of the Minister for Planning and Public Spaces

6 August 2020

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning, Industry and Environment's website as follows.

1. Statement of Environmental Effects
 - http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10164
2. Submissions
 - http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10164

Appendix B – Statutory Considerations

OBJECTS OF THE EP&A ACT

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant consent/ approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects.

Therefore, in making an assessment, the objects set out in Section 1.3 of the EP&A Act should be considered to the extent they are relevant. A response to the objects is provided in the table below.

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposal supports the ongoing use of the tourist accommodation building through providing improved kitchen facilities, without negative impacts on the environment.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal would not have an unacceptable impact on the environment (being internal only works to the building) thus being ecologically sustainable development.
(c) to promote the orderly and economic use and development of land,	The development seeks approval for works that are aimed at supporting the ongoing use of the site for tourist accommodation.
(d) to promote the delivery and maintenance of affordable housing,	Not applicable.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The proposed development would not result in the loss of any threatened or vulnerable species, populations, communities or significant habitats.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposed development is not anticipated to result in any impacts upon built and cultural heritage, including Aboriginal cultural heritage.

(g) to promote good design and amenity of the built environment,	The Department considers the proposal is appropriately designed and would not impact the built or natural environment.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The Department has recommended conditions of consent to ensure the construction of the proposal is undertaken in accordance with legislation, guidelines, policies and procedures (refer to Appendix C).
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department did not exhibit the proposal, however received comments from the NPWS.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	Due to the location of the works the Department did not exhibit the application (consistent with the Departments Community Participation Plan), however the application was placed on the Department's website and at the Department's Jindabyne office.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIS that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment.

State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007 (Alpine SEPP) is applicable to the development. Consideration of the matters to be considered is provided below:

CI 14(1) - Matters to be considered by consent authority	
(a) the aim and objectives of this policy, as set out in clause 2	The proposal is consistent with the aim and objectives of the Alpine SEPP in that it is consistent with the principles of ESD and supports the ongoing use of the site for tourist accommodation.
(b) the conservation of the natural environment and any measures to mitigate environmental hazards (including geotechnical hazards, bush fires and flooding),	The proposal is appropriate as it allows for alterations to an existing building for the benefit of visitors and guests. Natural hazards have been adequately addressed.
(c) the cumulative impacts of development on existing transport, effluent management systems,	No adverse cumulative impacts are anticipated as the proposal will not result in any changes to existing

waste disposal facilities or transfer facilities, and existing water supply,	transport, effluent management systems, waste disposal facilities, transfer facilities or water supply.
(d) any statement of environmental effects,	The SEE and information supplied are considered adequate to enable a proper assessment of the works.
(e) the character of the alpine resort,	The proposal would not adversely alter the character of the resort and support the use of the existing tourist accommodation building.
(f) the Geotechnical Policy – Kosciuszko Alpine Resorts,	The Department notes that the works are internal building alterations that would be exempt under the Policy as it is considered that the alterations do not result in the load-bearing capacity of the building being exceeded.
(g) any sedimentation and erosion control measures,	No adverse impacts are expected due to the works being within the building.
(h) any stormwater drainage works proposed,	The existing stormwater drainage system is adequate for the proposed works.
(i) any visual impact of the proposed development, particularly when viewed from the Main Range,	The proposal, being internal works, does not impact upon the existing views of the site from the surrounding landscape.
(j) any significant increase in activities, outside of the ski season,	The proposal does not result in an increase in activities outside the ski season.
(k) if the development involves the installation of ski lifting facilities,	The proposal does not involve the installation of any new ski lifting facilities.
(l) if the development is proposed to be carried out in Perisher Range Alpine Resort: the document entitled Perisher Range Resorts Master Plan (PRRMP) and the document entitled Perisher Blue Ski Slope Master Plan,	The proposal has been considered against the criteria within the PRRMP and the Department concludes that the works to the building supports its use under the PRRMP.
(m) if the development is proposed to be carried out on land in a riparian corridor.	Not applicable to proposal.
CI 17 – applications referred to the National Parks and Wildlife Service	
The proposal was referred to the NPWS pursuant to clause 17 of the Alpine SEPP. Refer to comments received at Section 5 and discussion on proposal at Section 6 .	
CI 26 – Heritage conservation	

European heritage	The proposal is not considered to adversely impact the heritage significance of the building.
Aboriginal heritage	Due to the nature of the works not involving any ground disturbance or tree removal, NPWS have raised no concerns in terms of Aboriginal heritage.

Appendix C – Recommended Instrument of Consent